1949

File No. O. Succession/49

Legal Department

A Branch

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Subject:- Opinions under the

Indian Succession

Act 1925

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S .C. 7/6

submitted

2. It appears that thewidow of Mr. R.C, Shah who had insured his life with the Yorkshire Insurance Co. Ltd. has obtained a succession certificate from the District Court of Baroda Messrs. Romer Dadachanji Sethna & Co. , Solicitors have in this behalf requested Govt. to inform them as to whether under any law applicable in India such grants of Legal representation by a competent court of theBaroda State are recognised in India for the purposes of collecting debts and assets of the deceased. The H.D. considers that section 382 of the Indian Succession Act as amended would cover such cases and propose to inform the solicitors accordingly Before issue of such reply the papers are however shown to the R.L.A.

J.C. 7/6

Office of the R.L.A.

Indian Succession Act. 1925.
Sec. 382
.....
Certificate issued by D.J. in Baroda State.

Seen and returned

The view taken by the Home Department is correct.

P.M. Lad
8/3

Remembrancer of Legal Affairs.

U.R. to H.D.No. 2667 , dated the 9th March 1949

S.C. \ 7/6

L.D.R.I.No. 5252 dated 8-4-1949.

Submitted

A refugee woman named Mathibai Tekchand died on 13th Feb. 1949 and she has left some utensils, clothes etc. and a cashof Rs. 500/-. It appears that two beirs one as her son and the other as nephew are claiming those xxx belonging of the deceased. The R. & R.D. proposes to advise theheirs to produce succession certificates from a competent court of law. The R.L.A is requested to advise whether that view is correct.

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The claimants may be advised

to ~~kk~~ take out letters of administration

(see Sec. 218 and 220 of Indian Succession Act

Sd/
21-4

A.L.R. Asst in A.A.S's note

R.T.K.
4-5

R.L.A.

P.M.Lad
4-5

U.R. to R. & R.D. No. 4972 dated 6-5-49

Legal Department.

The Executive Bank's Solicitors desire to know whether Government would be prepared

(1) to permit Mrs. Varley to receive the full amount of all dividends actually received since Mr. Varley's death oncondition that apportionments will be cut out in the same way on Mrs. Varley's death, or

(2) in the alternative consent to the Executors making an exgratia payment out of the capital of the estate say of £ 1500/- to Mrs. Varley to tide her over these first difficult months.

Ten legatees set out in the Schedule to the Will are entitled to the residue in equal shares after Mrs. Varley's death. They are not entitled to receive any thing out of the estate during Mrs. Varley's life but thedividends which accrued due prior to Mr. Varley's death are to be credited to the capital account ofthe residue. Under both the proposals the said legatees are being requested to give up a part of the capital. Under the first proposal it is proposed that dividends amounting to £ 2250/- which are to be credited to the capital account immediately and distributed amongst the said legatees ultimately may begiven up as consideration for the estate of Mrs. Varley giving up thedividends accrued due but unpaid to Mrs. Varley prior to her death. Under the second proposal there is not such right of set off as the payment is to be an out-an-out and a purely ex-gratia payment but theamount suggested is a smaller amount namely £ 1500/- . It is not possible at this date to speculate as to what would be the amount of dividends which would accrue due but remain unpaid to Mrs. Varley at

.e of her death, and hence it may not be advisable to give up a bigger amount of Z 2250/- now, with a view to secure a merely speculative right of set off at a future date.

In law Government is not bound to accept either of the two proposals. At the same time the loss involved to Government ~~is entitled to~~ under either of the two proposals is small as Government is entitled to only one tenth of the amount proposed to be given up. Having regard to the amount involved and the circumstances set out in the Solicitor's letter Government may, either accept the Second proposal as suggested by S.C.P. & S.D. , or state that Government would be prepared to accept either of the two proposals which may be acceptable to themajority ofthe said legatees.

P.M.Lad
7-6

Remembrancer of Legal Affairs.

No 6411 Dtd 8-6-49

Office of the R.L.A.

There is no Parsi Panchayat Act, There is a Parsi Panchayat but it is understood that that body principally looks after the charitable institutions of the Parsi Community.

The law of succession amongst Parsis is governed by the Indian Succession Act, 1925, as amended by Act XVII of 1939. The special Rules for Parsi Intestates are contained in Part V, Chapter III of the Indian Succession Act, 1925. The History of Parsi Law is briefly given by P.L. Paruck in his Indian Succession Act, 1925. (Third Edition). Two copies of the said Act by P.L. Paruck may be sent to Mr. Kirpalani.

P.M.Lad
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Remembrancer of Legal Affairs.

U.R. to P. & S.D. , No. 8662 , dated the 2nd August 1949.

S.C. 7/6